



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF P-R-E-, INC.

DATE: FEB. 12, 2016

CERTIFICATION OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a real estate management company, seeks to permanently employ the Beneficiary as its president under the immigrant classification of a multinational executive or manager. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). The Director, Texas Service Center, denied the petition. The Petitioner filed a motion to reopen and a motion to reconsider the Director's decision. The Director denied both motions. The Petitioner then appealed the decision to us. We withdrew the Director's decision and remanded the matter for a new decision. The Director again denied the petition and returned the case to us. We notified the Petitioner of our intention to review the matter on certification.

The Director originally denied the petition on April 19, 2013, based on a finding that the Petitioner had not established its ability to pay the Beneficiary's proffered wage as required by the regulation at 8 C.F.R. § 204.5(g)(2). In our remand order dated March 28, 2014, we found that the Petitioner had overcome this basis for denial. We also, however, identified two other grounds for denial. Specifically, we found that the Petitioner had not established (1) that it would employ the Beneficiary in a qualifying managerial or executive capacity, or (2) that it had been doing business for at least one year prior to the petition's March 21, 2011, filing date. In remanding the case, we instructed the Director to certify the case to us if the Director again denied the petition.

On December 4, 2014, the Director issued a notice of intent to deny the petition, citing the two grounds identified in the remand order. In that notice, the Director advised the Petitioner that, if the Petitioner did not respond to the notice, then the Director may deny the petition. This information is in keeping with the regulation at 8 C.F.R. § 103.2(b)(13), which states:

If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the benefit request may be summarily denied as abandoned, denied based on the record, or denied for both reasons.

The record contains no response to the notice. Accordingly, on April 28, 2015, the Director denied the petition and forwarded the case to us. The Director, however, did not properly certify the decision in that he did not provide notice and advise the Petitioner that it had 30 days to submit a brief, as required by the regulation at 8 C.F.R. § 103.4(a)(2). Therefore, we sent a notice to the Petitioner on November 4, 2015, advising it of its right to submit a brief on certification.

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The response period has elapsed, and we have not received any response. Therefore, the Petitioner has not responded to the notice of intent to deny, the Director's subsequent decision, or our notice.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). The Petitioner has not sustained that burden.

ORDER: The initial decision of the Director, Texas Service Center is affirmed, and the petition is denied.

Cite as *Matter of P-R-E-, Inc.*, ID# 16070 (AAO Feb. 12, 2016)